

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**August 29, 2003**

DIVISION ONE

B163064     Martin Gans, et al.                    (Certified for Publication)  
                 v.  
                 L.C. Smull, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Spencer, P.J.

We concur:   Vogel (Miriam A.), J.  
                 Mallano, J.

B159433     People    (Not for Publication)  
                 v.  
                 Ubaldo Mio Gutierrez

The judgment is affirmed.

Spencer, P.J.

We concur:   Vogel (Miriam A.), J.  
                 Mallano, J.

B165717     People    (Not for Publication)  
                 v.  
                 Luis Enrique Alanis

The judgment is affirmed.

Spencer, P.J.

We concur:   Vogel (Miriam A.), J.  
                 Mallano, J.

August 29, 2003 (Continued)

## DIVISION ONE (Continued)

B152480      Noor  
v.  
Noor

(Not for Publication)

The order is reversed to the extent it requires Suhale Noor to complete a substance abuse program and stop using marijuana for medicinal purposes even if such use is approved by a physician. In all other respects, the order is affirmed. Asmath Noor is entitled to costs on appeal.

Mallano, J.

We concur: Spencer, P.J.  
Ortega, J.

B155044      Safieslamy      (Not for Publication)  
v.  
State Department of Toxic Substances Control, et al.

The judgment and the order awarding attorneys' fees and costs are affirmed.

Mallano, J.

We concur: Spencer, P.J.  
Ortega, J.

### DIVISION THREE

B160432 People (Not for Publication)  
v.  
Cabrera

The judgment is modified to stay the eight month sentence imposed on count two, pursuant to section 654. The clerk of the superior court is directed to prepare an amended abstract of judgment and forward a copy to the Department of Corrections. In all other respects, the judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.  
Croskey, J.

DIVISION THREE (Continued)

B160129      Brown, et al.                      (Not for Publication)  
                 v.  
                 Bally Total Fitness Corporation

The order and judgment granting summary adjudication on plaintiffs' first and second causes of action for negligence and negligent training are reversed. The trial court is directed to enter a new and different order denying defendant's motion for summary adjudication as to these two causes of action. The order and judgment granting summary adjudication on plaintiffs' third and fourth causes of action for negligent misrepresentation and fraud and deceit are affirmed. Costs on appeal are awarded to plaintiffs.

Kitching, J.

We concur:    Croskey, Acting P.J.  
                 Aldrich, J.

B158351      People                                      (Not for Publication)  
                 v.  
                 Gonzalez

The judgment is modified to reflect a consecutive one-year enhancement on count 5. (1170.1, 1170.11, 12022.7, subd.(a).) The clerk of the superior court is directed to prepare a modified abstract of judgment and to forward a copy to the Department of Corrections. In all other respects, the judgment is affirmed.

Aldrich, J.

We concur:    Klein, P.J.  
                 Kitching, J.

DIVISION EIGHT

B161967      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Delilah P.,  
In re Savannah P., a Person coming Under the Juvenile Court Law.

The orders of the juvenile court are affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

B167357      Robert M.      (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Los Angeles County Depart. of Children and Family Services et al., r.p.i.)

The petition for writ of mandate is denied on the merits. This opinion is final as to this court forthwith. (Cal. Rules of Court, rule 24(b) (3).)

Rubin, J.

We concur: Cooper, P.J.  
Boland, J.

B159601      People      (Not for Publication)  
v.  
Brown

The judgment of the trial court revoking appellant's probation and imposing sentence is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

August 29, 2003 (Continued)

## DIVISION EIGHT (Continued)

B159427 People v. Howell (Not for Publication)

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The judgment of the trial court is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

B156798 People (Not for Publication)  
v.  
Carpenter

The judgment is reversed with directions to strike the prior conviction in case SCR56210 for purposes of sentencing; to modify the judgment to reflect the trial court's imposition of one five-year enhancement pursuant to Penal Code section 667, subdivision (a)(1); and to resentence appellant in accord with this decision. After resentencing, the trial court is directed to prepare a modified abstract of judgment and forward it to the Department of Corrections. In all other respects, the judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

B154765 People (Not for Publication)  
v.  
Soto

The judgment of conviction as to count 3 is reversed, and the matter is remanded for resentencing in light of that reversal. In all other respects, the judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

August 29, 2003 (Continued)

## DIVISION EIGHT (Continued)

B161302      People                          (Not for Publication)  
v.  
Martinez

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The judgment is affirmed. The case is remanded to the trial court for further proceedings consistent with the opinion in this case.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

B160857      Aguilar                                  (Not for Publication)  
v.  
Chang, et al.

The order sustaining the demurrers without leave to amend and the dismissal of the complaint against Jade Escrow, Inc. and Mike Chang are affirmed. Aguilar's appeal of the order denying her motion to strike Gunvant Patel's answer is dismissed. The parties are to bear their own costs.

Boland, J.

We concur: Cooper, P.J.  
Rubin, J.

B162630 Kohrs & Fiske, et al. (Not for Publication)  
v.  
Kwalwasser, et al.

The judgment is affirmed. The District and Kwalwasser are to recover their costs on appeal.

Boland, J.

We concur: Cooper, P.J.  
Turner, J. (Assigned)

August 29, 2003 (Continued)

## DIVISION EIGHT (Continued)

B158445 People (Not for Publication)  
v.  
Dittmer

The judgment is reversed and the cause remanded for a new trial.

Boland, J.

We concur: Cooper, P.J.  
Rubin, J.

B161868 People (Not for Publication)  
v.  
Pugh

The judgment is reversed.

Boland, J.

We concur: Cooper, P.J.  
Rubin, J.

B157874      Modern Development Company  
v.  
Navigators Insurance Company

Filed order modifying opinion and certifying opinion for publication.  
(No change in the judgment)